

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

UNITED STATES OF AMERICA,

CASE NO. 14cr388-MMA

Plaintiff,

vs.

**NOTICE AND ORDER
PROVIDING TENTATIVE
RULINGS RE: DEFENSE
MOTIONS SET FOR HEARING ON
OCTOBER 6, 2015**

JOSE SUSUMO AZANO
MATSURA, et al.,

Defendants.

Defendants Jose Susumo Azano Matsura (“Azano”), Ravneet Singh (“Singh”), Marco Polo Cortes (“Cortes”), and ElectionMall, Inc. (“EMI”) are charged in a 26-count Superseding Indictment [Doc. No. 42] with various offenses arising out of an alleged conspiracy to violate federal campaign finance laws. The parties are set to appear before the Court for a hearing on several defense motions on Tuesday, October 6, 2015 at 1:30 p.m. In anticipation of the hearing, the Court issues the following tentative rulings:

1. The Court tentatively **DENIES** Azano’s Motion to Dismiss, or in the alternative, for Recusal of the United States Attorney’s Office [Doc. No. 189]. The Court tentatively finds that there is no evidence in this case of “flagrant prosecutorial misconduct.” *United States v. Chapman*, 524 F.3d 1073, 1085 (9th Cir. 2008). As such, dismissal of the Superseding Indictment pursuant to the Court’s supervisory powers is not warranted. Likewise, the Court tentatively finds no basis upon which to order the recusal of the entire United States Attorney’s Office for the Southern

1 District of California.

2 2. The Court tentatively **DENIES** Azano's Motion to Suppress Fruits of
3 Illegal Searches and to Authorize Subpoenas [Doc. No. 190]. The challenged
4 affidavits established probable cause to search Azano's commercial and residential
5 properties. The Court tentatively finds that Azano fails to make the requisite
6 showing necessary to entitle him to a *Franks* hearing on any of the issues raised in
7 his motion. The Court tentatively finds that the missing email chain is not relevant
8 to the Court's determination of Azano's motion to suppress, or the question of
9 whether a *Franks* hearing is necessary. Therefore, the Court tentatively denies
10 Azano's request to order the issuance of subpoenas to Jones Day and Sempra for the
11 missing email chain.

12 3. The Court tentatively **DENIES** Singh's Sealed Motion to Suppress
13 Evidence Obtained by Search Warrant [Doc. No. 199]. The Court tentatively finds
14 that the affidavit submitted in support of the warrant for EMI's office established
15 probable cause for the search. Agent Phan's affidavit set forth a "fair probability
16 that contraband or evidence" of campaign finance fraud would be found at EMI's
17 office, based on Singh's dealings with Azano and his connection to the Dumanis and
18 Filner campaigns. *Illinois v. Gates*, 462 U.S. 213, 238 (1983). The Court tentatively
19 finds that the agents who executed the warrant did not engage in an unconstitutional
20 general search.

21 4. The Court tentatively **GRANTS** EMI and Cortes's Motions for Joinder
22 in Co-Defendants' Motions [Doc. Nos. 196 and 201].

23 The Court advises the parties that the above rulings are tentative. The Court
24 will consider additional argument from counsel during the motion hearing.

25 **IT IS SO ORDERED.**

26 DATED: October 5, 2015

27 

28 Hon. Michael M. Anello
United States District Judge